

Message Text

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C O N F I D E N T I A L STATE 213590

E.O. 11652: GDS

TAGS: SREF, UR (BRAZINSKAR, ALGIRDAS AND PRANAS)

SUBJECT: BRAZINSKAS CASE

REF(A)MOSCOW 20113 (B) STATE 186926

1. FOLLOWING IS US POSITION REGARDING BRAZINSKAS CASE, PER
PRESS GUIDANCE PREPARED EARLIER THIS YEAR:

THE BRAZINSKAS ARE PRESENTLY UNDERGOING DEPORTATION
PROCEEDINGS FOR HAVING ENTERED THE US ILLEGALLY IN AUGUST,
1976.

THE BRAZINSKAS WERE PROSECUTED AND SENTENCED IN TURKEY FOR
THE OCTOBER, 1970 HIJACKING OF A SOVIET AIRLINER TO TURKEY,
DURING WHICH A STEWARDESS WAS KILLED. AFTER SERVING PART
OF THEIR SENTENCE, THE BRAZINSKAS WERE RELEASED TO A
REFUGEE CAMP IN MAY, 1974 UNDER A GENERAL AMNESTY ISSUED BY
THE TURKISH GOVERNMENT.

SUBSEQUENTLY, THE BRAZINSKAS MADE THEIR WAY TO VENEZUELA
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AND, ENROUTE FROM CARACAS TO TORONTO, DEPLANED IN NEW
YORK AND ENTERED THE US WITHOUT VISAS. IN NEW YORK, THEY
REQUESTED POLITICAL ASYLUM; BUT THE REQUEST WAS DENIED
BECAUSE OF THE SERIOUS NON-POLITICAL CRIMES WHICH THE
BRAZINSKAS HAD COMMITTED.

WE CONDEMN ALL HIJACKINGS AND ALL OTHER FORMS OF TERRORISM,

REGARDLESS OF THE MOTIVE. WE ESPECIALLY DEPLORE THE TRAGIC LOSS OF LIFE WHICH FREQUENTLY ACCOMPANIES SUCH CRIMINAL ACTS. THERE CAN BE NO JUSTIFICATION OR EXCUSE OF ANY ACTION WHICH RESULTS IN THE WANTON TAKING OF LIFE. HOWEVER, THE BRAZINSKAS HAVE ALREADY BEEN PROSECUTED UNDER TURKISH LAW FOR HIJACKING THE SOVIET AIRLINER AND FOR CAUSING THE DEATH OF THE STEWARDESS. THEY ARE NOT LIABLE FOR PROSECUTION BY THE US FOR THESE CRIMES. THE ONLY VIOLATIONS OF US LAW FOR WHICH THE BRAZINSKAS CAN BE PROSECUTED IN THE US IS THEIR ILLEGAL ENTRY INTO THIS COUNTRY.

2. THE LEGAL BASIS FOR THE DEPARTMENT RECOMMENDATION THAT THE BRAZINSKAS' BE DENIED POLITICAL ASYLUM IN THE US IS AS FOLLOWS:

THE PROTOCOL RELATING TO THE STATUS OF REFUGEES, TO WHICH THE UNITED STATES IS A PARTY, INCORPORATES ALL OF THE SUBSTANTIVE PROVISIONS OF THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES INCLUDING THE PROHIBITION AGAINST THE EXPULSION OF A PERSON TO A COUNTRY WHERE HIS LIFE OR FREEDOM WOULD BE THREATENED BECAUSE OF RACE, RELIGION, NATIONALITY, MEMBERSHIP OF A PARTICULAR SOCIAL GROUP, OR POLITICAL OPINION. HOWEVER, THE PROVISIONS OF THE CONVENTION DO NOT APPLY TO A PERSON WHO HAS BEEN CONVICTED OF A SERIOUS NON-POLITICAL CRIME OUTSIDE THE

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COUNTRY OF REFUGE PRIOR TO HIS ADMISSION INTO THAT COUNTRY. THE HIJACKING OF THE AIRCRAFT BY ALGIRDAS BRAZINSKAS AND HIS FATHER AND THE RESULTANT DEATH OF THE STEWARDESS CONSTITUTE A SERIOUS NON-POLITICAL CRIME, THUS EXCLUDING THE BRAZINSKAS FROM THE BENEFIT OF THE PROTECTION OF THE CONVENTION. FOR THIS REASON, IT IS THE RECOMMENDATION OF THE DEPARTMENT OF STATE THAT ALGIRDAS BRAZINSKAS' REQUEST FOR ASYLUM IN THE UNITED STATES NOT BE APPROVED.

3. FYI. THE ONLY RECENT DEVELOPMENT, INS HAS REFERRED BRAZINSKAS' CASE TO UNHRC WITH REQUEST THAT IT TRY TO FIND SOME OTHER COUNTRY WHERE THE BRAZINSKAS' MIGHT RESETTLE. THIS EFFORT HAS THUS FAR PROVEN UNSUCCESSFUL. CHRISTOPHER

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